

Serial No. 10/031,218

Art Unit: 3773
Examiner: Darwin P. Erez**REMARKS**

In response to the Patent Office Letter of April 27, 1010, the Applicant hereby requests reexamination and reconsideration. To further the prosecution of this application, the Applicant now files a Request for Continued Examination (RCE). Moreover, the Applicant has now reduced the number of claims including only a single independent claim, namely claim 34. Claim 34 has been structured based upon a thorough review of the Patent Office Action as well as the references, primarily the reference to Williams U.S. Patent No. 4,024,868.

In the Patent Office Letter, the Examiner has objected to claims 1 and 18. In view of the cancellation of these claims, this objection is now overcome. Moreover, in submitting claim 34, the objections set forth by the Examiner relating to claims 1 and 18 have been taken into account.

Now, with reference to the new references relied upon by the Examiner, the primary reference cited by the Examiner is the Williams U.S. Patent No. 4,024,868. This reference describes an aneurysm clamp. As acknowledged by the Examiner, the Williams reference does not show any straight section. Moreover, the Williams reference makes no mention of a hinge and certainly does not teach any hinge pin, as now claimed. For the straight section, the Examiner cites the Hilzinger U.S. Patent No. 4,192,315. It is not clear from the Examiner's rejection as to exactly what the straight section is being referenced. Moreover, Hilzinger also does not show a hinge pin. Furthermore, it would not be obvious to one skilled in the art as to the manner in which a straight section is applied to the Williams structure. In Fig. 1 of the Williams clamp, there is a lower straight section but it would not be obvious to one skilled in the art as to how a straight section would be connected relative to the arcuate section and how it would be connected with a hinge pin. Neither Williams nor Hilzinger describe a hinge pin.

The Williams structure would not be advantageous in connection with the objective of the present invention. As described in previous responses of the Applicant, one of the goals is to be able to provide a surgical clip that can pass through a relatively narrow applicator and in this connection the use of a single arcuate section but one with different contiguous radii of curvature

Serial No. 10/031,218

Art Unit: 3773
Examiner: Darwin P. Erez

is advantageous but is not at all taught by the combination of references relied upon by the Examiner. In the Williams structure, they illustrate an upper handle member 22 that is not at all considered as being formed with a single arcuate-shaped section formed as a single curvature but with different contiguous radii of curvature.

The Applicant wishes to also incorporate the arguments previously submitted relating to the objective of the present invention and the radii of curvature such as presented in the response of January 25, 2010 on pages 10 and 11 thereof. In this connection, it is the use of the two different radii (particularly one being greater than the other) in combination with the straight section that allows the clip of the present invention to be fed down a small diameter tube so as to be opened at the end of the tube.

In order to more clearly distinguish over the combination of references cited by the Examiner, the Applicant has now submitted a new claim 34. Previous claims 1 and 18 have been canceled from the application and certain claims that were dependent to claims 1 and 18 have now been dependent to claim 34. Claim 34 now defines a hinge member that supports at a base thereof one end of the elongated lower jaw. The elongated lower jaw is now defined as including an elongated substantially straight piece extending from the base, and at the other end thereof, a reversed segment contiguous with the elongated substantially straight piece and forming a latch for an engagement with the upper jaw. In this connection, refer to Fig. 1 of the present application and the bottom jaw at 34 and the latch at 16. This reversed segment is now claimed as being substantially shorter in length than the length of the elongated substantially straight piece of the elongated lower jaw. Moreover, the hinge member is now defined as including a hinge pin that is disposed over the base of the hinge member and spaced from and over the one end of the elongated lower jaw. This structure, as claimed to this point in claim 1, is not found in the references relied upon by the Examiner whether taken singly or in combination.

Moreover, the elongated upper jaw is now defined as including, at the proximal end thereof, a first straight section supported for pivoting at the hinge pin, and a single arcuate-

Serial No. 10/031,218

Art Unit: 3773
Examiner: Darwin P. Erez

shaped section contiguously adjoining the straight section and extending distally thereof and away from the hinge pin. The Williams reference does not teach any single arcuate-shaped section. Moreover, claim 34 defines the single arcuate-shaped section as formed as a single curvature but with different contiguous radii of curvature. Again, this language clearly distinguishes over the prior art relied upon by the Examiner.

Claim 34 also retains language previously found in claim 1 and for distinguishing over previous prior art relied upon by the Examiner such as the Lingua U.S. Patent No. 4,519,392. In this regard claim 34 defines the upper and lower jaws as having respective facing surfaces. Claim 34 also defines the first arcuate-shaped portion as having a first radius of curvature in its facing surface that is greater than a radius of curvature of said second arcuate-shaped portion. The last two paragraphs of claim 34 are also taken from previous claim 1.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicants respectfully submit that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicants hereby request a telephone or personal interview to facilitate the resolution of any remaining matters. Applicants' attorney may be contacted by telephone at the number indicated below to schedule such an interview.

Serial No. 10/031,218

Art Unit: 3773

Examiner: Darwin P. Erez

The U.S. Patent and Trademark Office is authorized to charge any fees incurred as a result of the filing hereof to our Deposit Account No.19-0120.

Respectfully submitted,
Marcus Filshie et al., Applicants

Dated: 8/25/10By: 

David M. Driscoll, Reg. No. 25,075

Applicant's Attorney

SALTER & MICHAELSON

321 South Main Street

Providence, Rhode Island 02903

Telephone: 401/421-3141

Facsimile : 401/861-1953

Customer No. 000987

F:\PotterClarkson\02597 Filshie\response to 04 27 10 OA.wpd